

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEPHEN MULKEY,
Petitioner,

No. 1:07-cv-885

-v-

HONORABLE PAUL L. MALONEY
MARY BURGHUIS,
Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

Stephen Mulkey, a prisoner under the control of the Michigan Department of Corrections (MDOC), filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. The magistrate judge issued a report (Dkt. No. 24) recommending the petition be denied. Mulkey (Petitioner) filed a perfunctory objection. (Dkt. No. 25.)

After being served with a report and recommendation (R&R) issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). A district court judge reviews *de novo* the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Only those objections that are specific are entitled to a *de novo* review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam) (holding the district court need not provide *de novo* review where the objections are frivolous, conclusive or too general because the burden is on the parties to “pinpoint those portions of the magistrate’s report that the district court must specifically consider”). The United States Supreme Court has held that the statute does not “positively require[] some lesser review by the district court when no objections are filed.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file an objection results in a waiver of the issue and

the issue cannot be appealed. *Sullivan*, 431 F.3d at 984; *see also Arn*, 474 U.S. at 155 (upholding the Sixth Circuit's practice). The district court judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

The report is ADOPTED as the opinion of this court. Petitioner's one sentence objection¹ fails to provide the level of specificity required for this court to perform a *de novo* review of the record. Petitioner's objection is OVERRULED. The court finds the report factually accurate and the reasoning sound. The court further agrees with the magistrate judge's recommendation that a certificate of appealability should be DENIED.

For these reasons **IT IS HEREBY ORDERED:**

1. The report and recommendation (Dkt. No. 24) is ADOPTED as the opinion of the court.
2. Petitioner's objection (Dkt. No. 25) is OVERRULED.
3. The petition for writ of habeas corpus is DENIED.
4. A certificate of appealability is DENIED.

Date: July 20, 2010

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge

¹The objection states "I Stephen Mulkey am objection [sic] to this Report and Recommendation." (Dkt. No. 25.)